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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,503	10/31/2000	David C. Cushing	2566-106	1384

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EXAMINER

AKERS, GEOFFREY R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application 09/699503	Applicant(s) Cushing
Examiner Akers, g	Art Unit 3624
Confirmation No.	

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- Responsive to communication(s) filed on 6/2/03
- This action is FINAL.  This action is non-final.
- Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- Claim(s) 1-19 is/are pending in this application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-19 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved or  disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.
- The drawing(s) filed on \_\_\_\_\_ is/are  accepted or  objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).

All  Some\*  None of the:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  The translation of the foreign language provisional application has been received.

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- Notice of References Cited, PTO-892
- Notice of Draftsperson's Patent Drawing Review, PTO-948

- Interview Summary, PTO-413
- Notice of Informal Patent Application, PTO-152
- Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is issued in response to applicant's Amendment A(Paper # 12) filed 6/2/03.
2. Claims 1,2 were amended. New claims 17-19 were added. None were deleted.
3. Claims 1-19 including amended and newly added claims, are pending.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-19 are rejected under 35 USC 103(a) Keiser(US Pat. No: 6,505,174) in view of Fraser(US Pat. No: 6,560,580) and further in view of Shoham(US Pat. No: 6,285,989).

6. As per claims 1-19 Keiser teaches a system for executing trades according to trading strategies(Abstract)(Fig 2-4) where the servers are connected to a plurality of clients over the Internet(Fig 1).Keiser also teaches trading securities over the day(Fig 3/302) as well as setting prices of securities(Fig 4/408) and setting timed buy/sell orders(Fig 5/502/504) and determining price movement as well as controlling the number of buy and sell orders in the queue(Fig 6/606) as well as limit pricing(Fig 11).Fraser teaches an automated auction based processor for securities(Abstract) including filters,qualification processing(Fig 2)(Fig 3A)(Fig 3B)(Fig 3C)(col

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4 line 6-col 5 line 59).Shoham teaches a universal on line trading market system(Abstract)(Figs 1-7)(col 4 line 36-col 5 line 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Keiser in view of Fraser to teach part of the above. The motivation to combine is to teach a computer implemented securities trading system with algorithmic functions and which can be modified to utilize financial data to enable real time fixed income securities trading as enunciated by Fraser(col 4 lines 19-24).It also would have been obvious to one of ordinary skill in the art at the time of the invention to combine Keiser in view of Fraser and further in view of Shoham to teach applicant's disclosure. The motivation to combine is to teach a computer implemented securities trading system with algorithmic functions and which can be modified to utilize financial data that has been statistically processed to enable real time, sophisticated specialized market-based rule executions as enunciated by Shoham(col 4 lines 29-35).

*Claim Rejections - 35 USC § 112*

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-19 are further rejected under 35 USC 112(2nd) for failing to point out and distinctly claim what applicant regards is the invention. The subject claims are overly broad and should be narrowed to more definitively delineate the algorithms in sufficient detail with methodologies addressed for which trade executions are predicated.

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***Response to Arguments***

9. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Applicant's amendment necessitated the additional (new) ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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11. Any questions concerning this communication should be addressed to the examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the examiner are unsuccessful, the examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

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The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687.

GRA  
  
July 12, 2003

DR. GEOFFREY R. AKERS, P.E.  
PRIMARY EXAMINER